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WAYS AND MEANS OF ENHANCING THE UTILIZATION OF TRADE PREFERENCES BY DEVELOPING COUNTRIES, IN PARTICULAR LDCs, AS WELL AS FURTHER WAYS OF EXPANDING PREFERENCES

Report by the UNCTAD secretariat

Executive Summary

There will still be a long process of further multilateral negotiations, regional integration and national policy reforms until progressive liberalization and growing reciprocity in North-South trade relations leave no further scope for commercially meaningful unilateral trade preferences, in particular in favour of LDCs. Benefits from trade preferences continue to be concentrated on relatively few beneficiary countries. A strengthening and reorientation of technical cooperation may serve to focus greater attention on enabling LDCs to make better use of GSP preferences, while adapting technical cooperation in the case of more advanced developing countries to their changing needs. Many preference-giving countries have improved their GSP schemes and other trade preferences in various ways since the conclusion of the Uruguay Round, in particular for LDCs. Important areas for further improvement, including special measures for LDCs, are product coverage, preferences margins, rules of origin and the stability and predictability of schemes. New major policy initiatives to further increase the promotional impact of the schemes, adapt preferences to the new trading environment and provide for greater uniformity in design and application could comprise enhancing burden sharing, the development-friendly operation of preferential schemes, an alternative approach to graduation, GSP and other preferences in new areas, greater alignment of LDC preferences, harmonization of preferential rules of origin, and, more generally, the search for a new concept of S&D treatment for developing countries.

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INTRODUCTION

1. At the time of its acceptance at UNCTAD II in 1968, the Generalized System of Preferences (GSP) was a major breakthrough in international trade policy. Now, 30 years later, the principle of unilaterally accorded preferential treatment seems to be at a crossroads in a world economic setting which has greatly changed. Progressive liberalization of trade and investment is leading to more reciprocity in North-South economic relations.

2. There are now 15 GSP schemes in operation[1] offered by 29 preference-giving countries, including the 15 member countries of the European Union. Other non-reciprocal trade preferences are granted by the European Union to African, Caribbean and Pacific (ACP) countries, by the United States and Canada to countries in the Caribbean and Central America, by the United States to Andean countries, and by Australia and New Zealand to Pacific island countries.

3. The value of the GSP as an instrument for the expansion of the trade of developing countries was recognized once again at UNCTAD IX. The Conference invited preference-giving countries to continue to improve and renew their GSP schemes in keeping with the Uruguay Round trading system and with the objective of integrating developing countries, especially least developed countries (LDCs), into the international trading system. In particular, it was emphasized that ways and means should be found to ensure more effective utilization of GSP schemes, especially by LDCs.

Chapter I

THE GSP AND OTHER NON-RECIPROCAL TRADE PREFERENCES IN THE POST-URUGUAY ROUND TRADING ENVIRONMENT

4. The GSP and other unilateral trade preferences are facing a new trading environment which is pervaded by the processes of liberalization and globalization as well as by vibrant regionalism. Liberalization is progressing in the world economy as the result of various rounds of multilateral trade negotiations, especially the recent Uruguay Round, and unilateral measures at national levels. Consequent to the Uruguay Round, bound duty-free treatment will cover almost 40 per cent of imports by the United States, 38 per cent of imports by the European Union and 71 per cent of imports by Japan. Further liberalization will arise from the implementation of the Information Technology Agreement. Moreover, future multilateral trade negotiations will give a further impetus to the removal of market access barriers. In addition, a rapidly increasing number of trade arrangements aim to liberalize trade among participating countries, both developed and developing, on a reciprocal basis. There is also a growing differentiation among developing countries in terms of economic growth and development, particularly between LDCs and other countries with structurally weak economies such as landlocked and small island countries as compared with other developing countries. All these changes in the trading environment have implications for non-reciprocal trade preferences.

A. Implications of liberalization and globalization

5. The implementation of the Uruguay Round Agreements as well as unilateral cuts in MFN tariffs on the part of preference-giving countries have eroded, and continue to erode, preferential margins enjoyed by the beneficiaries of the GSP and other non-reciprocal trade preference schemes. As regards the GSP, estimations have been made for the markets of the three largest preference-giving entities/countries (i.e. the European Union, Japan and the United States), which account for over 80 per cent of preferential imports. These estimations indicate that, in comparing the pre- and post-Uruguay Round situations, there is an average loss in preferential margins for all GSP-receiving imports from non-LDC beneficiaries of about 2.9 percentage points (1.4 for LDCs) in the European Union, 3.6 percentage points (4.1 for LDCs) in Japan and 2.8 percentage points (2.7 for LDCs) in the United States.[2] Australia and New Zealand are phasing out their GSP benefits for most developing countries in the context of their progressive trade liberalization programmes, leaving LDCs as essentially the only GSP beneficiaries. Some empirical work suggests that

while the impact of erosion on trade flows may after all be small, it could be significant for certain countries.

6. It is difficult to assess whether new trade generated as a result of the Uruguay Round Agreements and unilateral liberalization measures will actually outweigh losses in preferential trade arising from the erosion of preference margins. The outcome depends, in large part, on the extent to which liberalization has occurred in sectors or products which are not covered by some or all GSP schemes and for which developing countries have export supply capabilities. The number of such sectors may prove to be relatively limited, in particular for LDCs.

7. Despite the progress made in the liberalization of international trade, significant tariff barriers in the form of peak tariffs (defined as tariffs in excess of 12 per cent) will continue to affect important segments of agricultural and industrial products of export interest to developing countries even after all Uruguay Round concessions are fully implemented. Thus, more than one tenth of the tariffs of Canada, the European Union, Japan and the United States will continue to exceed 12 per cent ad valorem rates. Peak tariffs affect such sectors as agricultural staples; fruit, vegetables and fish; processed, and especially canned, food; textiles and clothing; footwear, leather and leather goods; automobiles and other transport equipment; and electronics. In agriculture, the tariffication of quotas and other non-tariff measures has introduced new peak tariffs, often at prohibitive levels. Moreover, tariff escalation by stages of production continues in such sectors as metals, textiles and clothing, leather and rubber products and, to some extent, wood products and furniture. Trade in textiles and clothing remains severely restricted pending the implementation of the WTO Agreement on Textiles and Clothing. Significant scope remains for an expansion of the GSP and other trade preferences.

8. Furthermore, the process of globalization offers new opportunities for preferential trade. Globalization is driven by corporate policies which base decisions about where to locate production operations on a systematic comparison of production conditions in different countries. Production on a global scale allows for the combination of production factors and inputs from a wide variety of sources so as to produce an output that is optimal in terms of cost, quality and suitability for different markets. Globalization implies a move beyond mere interdependence to the mixing and blending of national economies, and can serve as a major vehicle for developing countries to participate more fully in international production and trade. As enterprises look to all countries to gain advantages in production, developing countries can be integrated into new emerging global or regional value-added chains in compliance with each country's best ability to produce. The GSP and other trade preferences as well as simplified and harmonized rules of origin can support such processes of integration into corporate production and technology networks.

B. Implications of growing reciprocity in North-South trade relations

9. The GSP and other unilateral trade preferences are increasingly being applied in a world economic setting which is experiencing an expansion in reciprocal trade arrangements at interregional, regional and bilateral levels, and in the form of large economic integration groupings. NAFTA is the main example of a free trade area formed by developed and developing countries. The Canada-Chile Free Trade Agreement is another case in point. APEC may also evolve into a free trade area, as may be the case with the proposed Free Trade Area for the Americas (FTAA), which is intended to comprise the whole of the Western hemisphere. The African Growth and Opportunity Act, proposed by the United States Administration, envisages the development of a plan to enter into one or more free trade agreements with sub-Saharan African countries in order to establish a United States-sub-Saharan Africa Free Trade Area.

10. The European Union is engaged in a process of widening and deepening integration with developing countries around the Mediterranean basin, and is currently concluding Association Agreements with some of them with the objective of introducing progressively free trade at bilateral levels. Moreover, the European Union and its Mediterranean partner countries have pledged to put in place a free trade area for the region as a whole by the year 2010. Similarly, the European Union intends to move beyond existing agreements with MERCOSUR and

Mexico and eventually achieve free trade in its relations with these countries. Furthermore, preferential trade relations on a reciprocal basis are being negotiated between the European Union and South Africa. Likewise, the "Europe Agreements" concluded by the European Union with Baltic States and economies in transition in Central and Eastern Europe are reciprocal arrangements. The possibility of full membership in the European Union is also under consideration for some of the countries in Central and Eastern Europe, the Baltic countries and Cyprus and Malta. At the same time, regional reciprocal agreements among developing countries have gained new momentum.

11. The trend towards greater reciprocity in North-South trade relations has also become apparent in the context of the preparations for the negotiation of a follow-up agreement to the Lomé Convention, which expires in February 2000. In the view of the European Commission, "it will not be possible to enhance the EU-ACP economic partnership without abandoning the traditional approach to trade - centred on a system of unilateral preferences - in favour of a more balanced approach characterized by a genuine partnership and taking account of the parties' mutual interests".[4]

12. The European Commission has proposed guidelines for negotiations in line with this basic policy approach.[5] The negotiation of a framework agreement with the ACP countries would be followed by the negotiation of a number of differentiated economic partnership agreements, mainly with regional subgroups engaged in a process of integration. Under these partnership agreements, free trade areas would be established progressively, starting in 2006. Current Lomé preferences would be maintained up to 2005. Thereafter, non-LDC ACP countries that do not wish to enter into reciprocal agreements with the European Union would "fall back" into the GSP.

13. The First Summit of ACP Heads of State and Government in November 1997 at Libreville called upon the European Union to maintain non-reciprocal trade preferences and the preferential commodity protocols, albeit within the framework of a comprehensive trade development programme which ACP countries committed themselves to undertake.[6] They requested the European Union to assist them in their drive to tackle supply-side constraints. The policy directives of Libreville were reiterated in the "Negotiating Guidelines for ACP-EU Cooperation Beyond Lomé IV", which were adopted by the ACP Council of Ministers meeting in Barbados in May 1998.

14. In a longer-term perspective, the GSP and other unilateral trade preferences will lose their relevance for beneficiary developing countries as and when these countries enter into reciprocal trade arrangements with preference-giving developed trading partners. Such trade arrangements will ultimately offer developing member countries relatively more favourable and, in many cases, completely free access to the markets of developed country partners.

15. Thus, the FTAA would effectively supersede all unilateral preferences granted to the developing countries in the Western hemisphere by the United States under the GSP, the Caribbean Basin Initiative (CBI) and the Andean Trade Preference Act (ATPA), and by Canada under the GSP and the Canadian Trade, Investment and Industrial Cooperation Programme (CARIBCAN). The implementation of APEC would supersede all unilateral preferences, including the GSP, of the United States, Canada, Japan, Australia and New Zealand for developing country members of APEC around the Pacific Rim, and in fact for all beneficiary countries if the process of APEC liberalization were to proceed, as some have suggested, on an MFN basis. Moreover, the realization of a United States-sub-Saharan Africa Free Trade Area would replace the GSP of the United States for a large part of Africa. Furthermore, unilateral trade preferences are being, or will be, displaced by the Euro-Mediterranean Association Agreements and reciprocal successor arrangements to the Lomé Convention. Agreements entered into by the European Union with MERCOSUR, Mexico and South Africa will make the GSP obsolete in its trade relations with these countries. The Europe Agreements have already replaced the GSP in trade relations with Central and Eastern European economies.

16. Moreover, reciprocal successor agreements to Lomé have to take account of the adverse implications which preferential treatment offered by ACP countries

to the products of the European Union might have for unilateral trade preferences enjoyed by these countries under the GSP and CBI schemes of the United States. Eligibility under these schemes would be affected if the preferential treatment offered to the European Union has, or is likely to have, a significant adverse effect on United States commerce. The ACP countries concerned may then need to negotiate compensatory market access conditions for the United States to maintain the GSP and CBI benefits. In the same vein, "reverse preference conditionality" applies under Lomé. Developing countries in the Caribbean region that join the proposed FTAA and, hence, offer the United States and other FTAA members reciprocity in mutual trade are obliged by the Lomé Convention to open their markets to products from the European Union to the same extent.

C. LDCs and other structurally weak economies as beneficiaries

17. Most LDCs and other structurally weak developing countries have difficulty in offering full reciprocity in trade agreements with more developed countries like the members of NAFTA, or the proposed post-Lomé arrangements. Their infant industrial sectors are unlikely to survive a broad-based opening to strong foreign competitors within relatively short transition periods. Moreover, the new generation of regional integration arrangements increasingly extends to the liberalization of trade in services and investment, competition law and the pursuance of other economic, monetary and political objectives. On the other hand, smaller countries that find themselves outside reciprocal arrangements face a considerably increased competitive advantage on the part of member countries, including developed countries, in the markets covered by these arrangements. Trade and investment diversions are likely to result for outsiders.

18. Under the post-Lomé arrangements as proposed by the European Commission, LDCs belonging to regional subgroups with which agreements will be concluded would, in principle, be expected to accept reciprocity in trade relations with the European Union. However, the European Commission recognizes that this would require considerable adjustment efforts by these LDCs, and extra help would need to be provided in the form of flanking measures such as transition aid, macroeconomic assistance or sectoral assistance. Moreover, there is an indication that the European Commission is considering the possibility of longer transition periods for LDCs and other structurally weak and vulnerable economies in establishing free trade areas, and a more limited product coverage of free trade agreements for these countries, leaving some scope for non-reciprocal trade preferences.

19. For LDCs not belonging to a regional subgroup involved in negotiations with the European Union, the ACP framework agreement would lay down the terms of market access on the basis of the current "acquis" and the Council of Europe conclusions of 2 June 1997 in favour of LDCs, which envisages for the medium term the provision of duty-free access for essentially all products from these countries. It should be understood that such arrangements would apply to all LDCs (ACP or otherwise) resulting in a harmonization of non-reciprocal LDC preferences offered by the European Union.

20. The problem of small countries outside regional trade agreements is also illustrated by the case of the Caribbean island countries and the potentially adverse implications which NAFTA might have on their trade and economic development. The United States Government is conscious of the predicament of these countries which claim to be seriously affected by trade and investment diversions due to NAFTA, in particular in the textiles and clothing sectors, but feel that they lack sufficient economic strength to engage in reciprocal relations with this integration grouping. The United States Government has therefore proposed to grant these countries "NAFTA parity" on a non-reciprocal basis within the framework of the CBI.

D. Outlook

21. There will still be a long-term process of further multilateral negotiations, regional integration and national policy reforms before liberalization has been implemented in the world economy on a scale that no longer leaves any scope for commercially meaningful unilateral trade preferences

for products of export interest to developing countries. Multilateral and regional negotiations have proved to be protracted undertakings, and the deadlines set for the establishment of free trade areas with developed and developing country participants are often political declarations of goodwill rather than realistic targets.

22. It is likely to take a long time to remove all market access barriers in the Western hemisphere under the umbrella of the FTAA, to implement free trade between the European Union and various sub-regions of ACP countries, to open markets completely within the framework of APEC and to put in place a Euro-Mediterranean free trade area. Complex debates among parties over the balancing of benefits and costs will be followed by extensive reviews in the WTO where third countries might challenge the compatibility of certain trade arrangements with GATT provisions. For many developing countries, in particular LDCs, negotiations to establish free trade areas and other reciprocal trade arrangements may be difficult to conduct, as such negotiations often require specialized knowledge, including familiarity with the regulatory framework and trade legislation of partner countries, especially when the negotiating agenda reaches beyond mere trade liberalization to encompass other complex areas such as intellectual property rights provisions, competition laws or rules of origin.

23. For some time to come, peak tariffs and tariff escalation will continue to be levied on an important number of agricultural and industrial products of export interest to developing countries and will exert a strong dissuasive effect on trade in these products in the absence of trade preferences. The processes of liberalization and growing reciprocity in international trade should therefore not be taken as an argument in favour of repealing GSP programmes and other unilateral preferential arrangements prematurely. Rather, a positive approach would be to reaffirm the important role of the GSP and other non-reciprocal trade preferences as tools for development by strengthening their provisions wherever these preferences continue to apply, in particular in favour of LDCs. In the case of reciprocal trade arrangements, unilateral preferences, and the further improvement of such preferences, can help beneficiaries outside free trade areas to regain some of the competitive advantage lost to those that are members. Moreover, it has yet to be demonstrated that reciprocal preferences will lead to a better utilization of preferences. Unless asymmetrical and ancillary measures are put in place to address supply constraints and other factors that previously limited the utilization of unilaterally granted preferences, the balance of the benefits to be gained from the new reciprocal arrangements could, in fact, be negative. Again, the expansion of product coverage under free trade arrangements may not be exploited by the developing country partners and may not, therefore, outweigh the potential cost of a comprehensive and relatively rapid opening of their domestic markets.

24. A realistic view suggests that for many developing countries the difficulties of eliminating tariffs at the same rate as major developed country trading partners will persist for some time to come. The notion of full reciprocity covering substantially all trade appears premature at present in many cases. The process of building broad-based international competitiveness is long and complicated for a great number of developing economies and, to no small extent, is influenced by external factors over which individual countries have no control.

Chapter II

TRADE UNDER THE GSP AND OTHER NON-RECIPROCAL PREFERENCES: RECENT TRENDS

25. In 1996, dutiable imports by preference-giving countries from GSP beneficiaries amounted to some $357 billion, of which imports of about $184 billion (52 per cent) were products covered under GSP schemes. Imports worth around $103 billion actually benefited from GSP treatment (56 per cent of GSP-covered products). In 1976, two decades earlier, dutiable imports from GSP beneficiaries had amounted to about $52 billion, of which some $24 billion (46 per cent) were products eligible for GSP. Imports of about $11 billion actually received GSP treatment in 1976 (45 per cent of GSP-covered products) (annex table 1)".* Imports from LDCs which received GSP treatment have been relatively

small in value terms, amounting to $1.6 billion in 1996, up from $145 million in 1976 (annex table 2). They represented minute shares of GSP imports of major preference-giving countries (1.6 per cent in 1996 and 1.3 per cent in 1976).

26. The European Union, Japan and the United States continue to account for the bulk of GSP imports, with the European Union being by far the largest market. Its imports that received GSP treatment amounted to $70 billion in 1995 and $62.5 billion in 1996 (annex table 1).

27. The concentration of the bulk of GSP benefits in a few beneficiary developing countries has remained a prominent feature (annex table 3). In the case of the United States, the 10 largest beneficiaries accounted for 85 per cent of preferential GSP imports in 1996. The picture is similar for the European Union and Japan. The 10 largest suppliers commanded shares of 79 per cent and 86 per cent respectively in 1996. The large GSP suppliers have predominantly been major exporting countries in Asia and some important exporters in Latin America.

28. The concentration of GSP benefits in a few supplying countries is even more pronounced for LDC beneficiaries (annex table 4). In 1996, the shares of the five largest LDC suppliers in GSP imports from LDC beneficiaries amounted to slightly more than 90 per cent in the markets of the United States and Japan and to 97 per cent in the market of the European Union. Bangladesh was a major supplier among LDC beneficiaries, ranking in top position in the United States and the European Union in 1996. A few African LDCs are among the five largest LDC suppliers under the GSP schemes of the United States and Japan.

29. Imports (at the HS 6-digit level) which benefited from the GSP are relatively diversified in the case of GSP imports from non-LDC beneficiaries, although there is scope for further improvement. In 1996, the 25 most important GSP products imported by the United States, Japan and the European Union from non-LDC beneficiary countries accounted for shares of 36 per cent, 38 per cent and 23 per cent respectively of their total GSP imports from these beneficiaries. Japan has a relatively high proportion of food products among its top 25 products (ten in 1996) as compared to the European Union (five in 1996) and the United States (one in 1996) (annex table 5).

30. By contrast, imports which benefited from the GSP have in the case of LDCs been highly concentrated in a few products (annex table 6). The five most important products imported by the United States, the European Union and Japan from LDCs under the GSP represented shares of 62 per cent, 64 per cent and 81 per cent respectively of their overall GSP imports from LDCs in 1996. The major items have been food products, including fish and crustaceans (particularly in the case of Japan), clothing (in particular in the European Union) and raw sugar (in the case of the United States). Sugar imports by the United States under the GSP originated in only two countries, i.e. Mozambique and Malawi, while GSP imports of dried or frozen octopus by Japan were supplied by three countries, i.e. Mauritania, and the Gambia, as well as Kiribati, which is not a LDC. In the case of Mauritania, its supplies of octopus were practically the only exports under the GSP to the Japanese market.

31. The utilization rate, i.e. the ratio between imports that have actually received GSP treatment under a scheme and imports covered by the scheme, is a measure of how effectively beneficiaries have been able to take advantage of a GSP scheme. Under the schemes of the United States and the European Union beneficiaries other than LDCs had utilization rates of about 60 per cent in 1996, while the rate has been distinctly lower for Japan, amounting to some 40 per cent in the same year. The utilization rate for agricultural products was lower than for industrial products under the scheme of the United States in 1996, while in the case of the other two schemes the utilization rates for agriculture were distinctly higher in the same year, amounting to about 80 per cent for the European Union and well over 90 per cent for Japan. The utilization rate for the industrial sector was relatively low for Japan (35 per cent)(annex table 7). The following individual sectors have been among those with utilization rates of less than 50 per cent in 1996: beverages and tobacco; energy and mineral products; clothing; consumer electronics; watches and clocks (European Union); dairy products; sugar, chocolate and cocoa preparations;

leather and leather products; textiles; clothing; and footwear (Japan); fruit and vegetables; canned and prepared meat and fish (United States).

32. For LDCs, the utilization rate was about 70 per cent in 1996 in the cases of Japan and the United States, but slightly less than 50 per cent for the European Union (annex table 8). Moreover, utilization rates for the agricultural sector were high for the United States (93 per cent) and Japan (almost 100 per cent), but low in comparison for the European Union (48 per cent). In the industrial sector, both Japan and the European Union had relatively low utilization rates in 1996 (about 45 per cent in both cases), while the rate was somewhat higher for the United States (56 per cent) in the same year (annex table 8). The following individual sectors have been among those with utilization rates of 50 per cent or less in 1996: dairy products; vegetable oils and fats; beverages and tobacco; clothing; consumer electronics; metal products (European Union); fruit and vegetables; clothing; metal products (Japan); beverages and tobacco; consumer electronics, metal products; wood and paper (United States).

33. The examination of GSP performance raises essentially three issues. First, the continuing concentration of GSP benefits on relatively few major exporting developing countries casts doubt on the effectiveness of graduation measures as a means to promote an equitable distribution of benefits among beneficiaries. Secondly, low utilization rates suggest that a fair amount of GSP trading opportunities have yet to be seized by beneficiaries. Thirdly, the concentration of GSP benefits on very few LDCs (if preferential imports from LDCs are considered separately) is a matter for particular concern. It indicates that most LDCs hardly benefit from the GSP, if at all.

34. Under the Lomé Convention, the ACP countries on the whole have not been successful in penetrating the market of the European Union despite being at the apex of the pyramid of European preferences. Thus, over the 20-year period from 1976 to 1996, the share of imports from ACP countries in total imports of the European Union declined substantially, from 6.7 per cent to some 3 per cent. As in the case of the GSP, ACP exports have been concentrated in a relatively small number of beneficiary countries. Some 13 out of over 70 ACP countries account for more than 70 per cent of all ACP exports to the European Union. Only a few countries like Fiji, Jamaica, Mauritius and Zimbabwe have diversified into non-traditional exports like textiles, clothing, processed fish and horticultural products as, for instance, fresh cut flowers. Exports of manufactures account for more than half of the exports in the cases of Mauritius and Lesotho only, with textiles and clothing representing the bulk of their sales of manufactured products. In particular, the heavy reliance of Caribbean countries on trade under the commodity protocols, especially with regard to exports of bananas, has worked against a diversification of production for export.

35. The concentration of trade benefits on a few beneficiary countries and a particular range of their export products is also a feature of other non-reciprocal trade preferences. Thus, the Dominican Republic is by far the major beneficiary under CBI (in particular for exports of sugar, leather footwear uppers, higher-priced cigars, medical and surgical instruments), Jamaica and Guyana under CARIBCAN (exports of rock lobsters and other sea crawfish, lighting fixtures), Colombia under ATPA (exports of flower products), and Fiji under the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA) (exports of garments).

Chapter III

IMPROVING THE UTILIZATION OF TRADE PREFERENCES AND FURTHER EXPANDING THEM, IN PARTICULAR IN FAVOUR OF LDCs

A. Promoting utilization

36. Inadequate utilization of existing GSP benefits may be traced back to various difficulties. Some of these can, to a large extent, be addressed by the beneficiary countries themselves, while others are beyond their control. Difficulties which beneficiaries can address are, in particular, insufficient knowledge of GSP schemes on the part of exporters, inadequacies of managerial and institutional capabilities in using the GSP and following GSP procedures and, more specifically, the high transaction costs which result from such inadequacies and work against enhanced utilization. These problems are particularly pronounced in the case of LDC beneficiaries. GSP schemes, associated rules of origin and documentary requirements are complex, and GSP schemes vary considerably among one another with regard to product coverage and other substantive and operational features. Moreover, GSP schemes are subject to change. It can be a tedious task to ascertain whether a certain product is covered, in particular where qualifications apply, such as marketing timetables and seasonal variations in the agricultural sector or ceilings and competitive need limitations, and, in addition, to ensure that the export product will actually be granted GSP treatment by the importing donor country. Insufficient export supply capability can be a further problem which is more fundamental in nature.

37. A few major developing countries put in place efficient support services to help their exporters make use of GSP preferences when the expansion of GSP exports became an important objective of national trade policies. Their experience may provide some guidance for other beneficiaries that have been less successful in exploiting GSP benefits. Government authorities such as the Trade Development Board of Singapore or the Philippines Customs Bureau have actively facilitated GSP export operations. They furnished advisory services including the identification of GSP trading opportunities, monitored changes in GSP schemes, and kept records of GSP textile exports subject to quotas. Some also established "one-stop" procedures so that exporters had to deal with one authority only.

38. Measures of beneficiary countries may be supported by complementary efforts of importers and governments in preference-giving countries to enhance GSP utilization. Thus, the provision of GSP benefits may, where appropriate, be accompanied by industrial cooperation arrangements between importers and developing country producers with a view to strengthening and diversifying the supply capabilities of the latter. For instance, in the context of the Caribbean Basin Special Access Programme for Textiles of the United States, covering outward processing operations in Caribbean countries, technical assistance and know-how have been provided by United States manufacturers to their Caribbean subcontractors. Similar assistance at the enterprise level has been furnished by European manufacturers in the framework of outward processing arrangements of the European Union, in particular to the benefit of subcontractors in developing countries in the Mediterranean region and in Eastern European countries. Governments of preference-giving countries may help by increasing the capacity of beneficiary countries to step up the utilization of trade preferences through bilateral assistance which strengthens export supply capabilities. The experience gained with industrial rehabilitation programmes in the context of the MEDA and PHARE initiatives of the European Union to the benefit of Mediterranean and Eastern European countries could provide valuable guidance in this regard. Furthermore, donor countries may consider providing incentives in support of investments in preference-receiving countries by producers from the donor countries in sectors that benefit from the GSP.

39. Moreover, the technical cooperation activities of international organizations can help to enhance GSP utilization. UNCTAD IX recommended that UNCTAD should focus its technical cooperation, inter alia, on contributing to a better utilization of preferences through improved familiarization with the GSP and other preferential trading arrangements. A strengthening and reorientation of technical cooperation may serve to place greater emphasis on enabling LDCs and other structurally weak economies to make better use of GSP preferences, while adapting technical cooperation in the case of more advanced developing countries to their changing needs.

40. The enhancement of GSP utilization by LDCs may be pursued through technical cooperation activities which increase awareness of existing GSP benefits, strengthen human resources and institutional capacities to comply with GSP procedures and help to reduce transaction costs. To this end, direct assistance in the form of advisory services and national workshops on individual schemes or particular technical aspects relating to the GSP and other market access conditions could be strengthened considerably. Furthermore, the arranging of national round tables in such countries might be envisaged for an exchange of experiences with experts and enterprises from successful developing countries that have effectively been able to benefit from the GSP to foster their development. Importing enterprises in preference-giving countries may also be associated with technical cooperation activities to draw on, and benefit from, their practical experience in purchasing from LDCs under the GSP. In the longer run, mutual TCDC-type arrangements for the implementation of training activities might also be envisaged.

41. The modalities of technical cooperation for more advanced developing countries may be shifted increasingly to measures of support which enhance the human resource capacities of these countries to carry out national workshops, information activities and training of their exporters at the national basis themselves, not only with regard to GSP, but also, and increasingly so, in areas of other trade laws regulating access to developed country markets. Such a decentralized approach to technical cooperation would involve the preparation of information and training materials for dissemination to developing country institutes capable of providing information services and training courses to local producers and exporters. Technical cooperation along these lines would reach a much larger proportion of producers and exporters and also be more cost-effective. UNCTAD technical cooperation would ensure control on a continuous basis of the quality of training materials and activities delivered by national institutions.

42. Strengthening of information and training services could have various major components: (i) continuous updating and dissemination of information on GSP and other trade laws through the provision of tutorial materials on CD-ROMs, diskettes or other appropriate media; (ii) placing of information on GSP schemes on the Internet; (iii) preparation of training packages for each of the GSP schemes; (iv) establishment of a network of cooperating training institutions in developing countries (e.g. chambers of commerce, export promotion institutes, academic institutions); and (v) assistance with training of trainers and adaptations of the training packages to national conditions, where required.

43. Finally, supporting measures could aim to: (i) increase financial resources from donor countries and UNDP for UNCTAD technical cooperation activities that enhance GSP utilization, (ii) reinforce cooperation between preference-giving countries and the UNCTAD secretariat in collecting GSP information; and, more generally, (iii) strengthen the technical cooperation activities of international organizations aimed at expanding the export supply capabilities of beneficiaries, in particular LDCs and other structurally weak economies.

44. The UNCTAD Technical Cooperation Programme on the GSP and Other Trade Laws has already started to implement some of the activities suggested above. An

updated series of handbooks on GSP schemes and other national trade laws is expected to be completed during the current year. Furthermore, work is in progress on a computerized tutorial of the GSP scheme of the European Union to be made available on the Internet, CD-ROM and diskettes. Progressively, all other GSP schemes will be made available in the same ways. Moreover, subject to financial contributions from donors, the Technical Cooperation Programme is planning to incorporate trade data on GSP utilization at tariff line level into TRAINS. This innovation will allow GSP focal points to assess the performance of their respective countries with regard to GSP utilization and, in particular, pinpoint specific export products that have not benefited satisfactorily from GSP preferences. Remedial action may then be identified in close consultation with the exporters and producers concerned.

B. Expanding benefits

1. Recent improvements

45. Many preference-giving countries have amended their GSP schemes in various ways since the conclusion of the Uruguay Round, in part to adapt them to the results of the Round. In particular, new initiatives have been taken to enhance trade preferences for LDCs.

(a) Improvements for all beneficiaries

46. A number of GSP schemes have significantly expanded their product coverage for all beneficiary countries. In some cases good progress has been made in expanding the coverage of agricultural products and processed food. Moreover, a few GSP schemes have removed quotas and ceilings on GSP benefits generally or for a range of products. The European Union, in the course of implementating a fundamentally new GSP scheme, has replaced such restrictions by a "modulation" of GSP preferences according to the import sensitivity of production sectors.

47. A few GSP schemes have lowered their preferential rates to mitigate the impact of declining MFN rates on GSP benefits. Under the GSP scheme of Japan, a greater number of GSP tariff reductions have been introduced on agricultural products, including all tropical and fishery products, to maintain the preferential margin following the MFN tariff cuts of the Uruguay Round. Under the scheme of Canada, new GSP rates have been set below the new MFN rates. Altogether some 3520 adjustments have been made.

48. Nearly all schemes have designated new countries as GSP beneficiaries. Schemes have added in particular member countries of the Commonwealth of Independent States as well as South Africa to their lists of GSP beneficiaries. A few GSP schemes, including those of the European Union and Switzerland, have improved their rules of origin by the introduction of donor-country content provisions. Some schemes have also eliminated the need to provide the Form A certificate of origin, thus easing documentation requirements. A number of preference-giving countries have been making efforts to put their GSP schemes on a longer-term basis to enhance stability and predictability.

(b) Initiatives for LDCs

49. Preference-giving countries have made efforts to improve trade preferences for LDCs both within and outside the framework of the GSP.

(i) GSP improvements

50. Besides the fact that LDCs benefited from general expansions in GSP product coverage, some GSP schemes, including those of the United States, Norway and Switzerland, introduced extensions in product coverage especially in favour of LDCs. As a rule, LDCs are now being granted duty-free market access for products covered under the existing GSP schemes. Canada is currently exploring an extension of duty-free product coverage for LDCs.

51. The product coverage of the GSP scheme of the United States has been expanded in favour of LDCs through the addition of nearly 1800 agricultural and industrial articles in 1997. In the agricultural sector, the extension covers almost all food, including processed food and fishery products. The addition of agricultural products creates substantial incentives for new exports from beneficiary LDCs to the United States market. The impact of the extension of product coverage on the expansion of industrial exports is likely to be less pronounced, as most import-sensitive industrial products remain excluded and the supply capabilities of LDCs are still fairly weak for many other manufactured articles. According to indications provided by the United States Government, the new LDC concessions cover additional imports from sub-Saharan LDCs that were valued at US$2.5 billion in 1996.

52. A number of preference-giving countries have relaxed stringent GSP rules of origin in favour of LDCs through derogations and the simplification of certification requirements. The European Council has announced that the Community will, as an immediate measure to improve LDC market access, promote regional cumulation facilities for the benefit of LDCs, and respond positively to their requests for derogations from the applicable rules of origin. In this context, the European Union has introduced a derogation in favour of some Asian LDCs from its "double jump" provision that, in the manufacture of certain clothing articles, two processing steps must be taken in the exporting country for it to benefit from GSP treatment. Owing to this derogation, these Asian LDCs may in the manufacture of certain clothing items now use woven fabric and yarn imported from a country belonging to ASEAN (except Myanmar), the South Asian Association for Regional Cooperation (SAARC) or the Lomé Convention. In the same vein, Japan has relaxed its GSP rules of origin requirements as imported fabrics may now be used in the production of certain clothing articles (classified in HS chapter 62). However, exports that benefit from these relaxations of rules of origin by the European Union and Japan are subject to quantitative limitations.

53. The European Council also suggested as an additional measure for the medium term that the rules of origin should be adapted to stimulate the development of existing industries and the creation of new industries in LDCs. However, it was stressed that adaptations should not enable third countries to draw undue advantage from cumulation facilities and simplified rules. Moreover, the European Commission has emphasized that country graduations should not have undesirable effects on the advantages accruing to beneficiary countries, in particular LDCs, under the regional cumulation mechanism. Provision would therefore be made for maintaining these advantages where they represented a long-held right. Accordingly, production inputs supplied by GSP-excluded countries to regional group members will continue to benefit from GSP cumulation provisions.

54. The United States and Canada have eliminated the requirement of the Certificate of Origin Form A, thereby reducing the transaction costs for exporters. Canada is considering a further liberalization of its rules of origin requirements and is at present in the process of consultating with the public and business communities on these improvements.

(ii) Other trade preferences

55. The European Union has improved preferential market access for many sensitive products under the Lomé Convention in favour of ACP countries, which comprise 39 LDCs. In addition, the European Union has extended the favourable treatment of ACP countries under the Lomé Convention to LDCs that are not signatories of this Convention, i.e. essentially LDCs in the Asian region. Products subject to quotas are, however, excluded from this extension. Moreover, the Council of Europe, in its conclusions of 2 June 1997, invited the European Commission to prepare specific proposals for additional measures to be taken on an autonomous basis over the medium term to improve market access for

LDCs. Such proposals should include the provision of duty-free access for essentially all products from LDCs. However, at the same time, the Council suggested that the Commission should also develop an appropriate mechanism to defend sensitive sectors against sudden unbalanced disruptions.

56. Moreover, the African Growth and Opportunity Act, proposed by the United States Administration in the context of its new trade and investment policy towards sub-Saharan Africa, envisages granting to eligible sub-Saharan developing countries, under certain conditions, duty-free market access for any non-import-sensitive products. These GSP benefits would remain in force until 31 May 2007. The African Growth and Opportunity Act would also introduce regional cumulation and donor-country content provisions for eligible developing countries in sub-Saharan Africa. The GSP scheme of the United States does not allow for donor-country content nor does it apply cumulation with regard to the sub-Saharan region.

(iii) Initiatives by developing countries

57. Developing countries themselves are also increasingly taking initiatives to accord preferential market access unilaterally to LDCs. Within the framework of the Global System of Trade Preferences among Developing Countries (GSTP), many of its members grant some special access conditions to LDCs that participate in the arrangement. However, in spite of some expression of interest, to date only a few LDCs form part of the GSTP.

58. At the High-level Meeting on Integrated Initiatives for Least Developed Countries' Trade Development, held in October 1997, several developing countries announced that they were ready to introduce a GSP for LDCs or extend further special concessions in favour of LDCs within the framework of the GSTP. Such announcements were made by Egypt, the Republic of Korea, Malaysia, Singapore and Thailand. Chile and Indonesia are also examining the possibilities of establishing special concessions for LDCs. Moreover, Morocco will introduce duty-free treatment for a range of products for the benefit of African LDCs. India and South Africa are considering special measures in favour of LDCs within their respective regional integration groupings. The details of the various concessions such as product coverage or preference margins still have to be communicated by the preference-giving developing countries. Turkey has introduced selective concessions according duty-free entry for some 556 products (on a 12-digit basis) in favour of LDCs until such time as it takes over the GSP scheme of the European Union. According to the Turkish Government, imports of those products amounted to around $600 million in 1996.

2. Scope for strengthening benefits

59. While recent improvements in GSP schemes and other trade preferences have been encouraging, there is scope for further enhancing the promotional impact of preferences. Preference-giving countries are invited to examine their possibilities of strengthening the trade benefits which they grant on an autonomous basis.

(a) Product coverage, preference margins and tariff quotas

60. Under most GSP schemes, a greater number of products (at the HS 8-digit level) remain excluded from coverage but are subject to MFN duties of 5 per cent or more, which offers scope for commercially meaningful preference margins. They comprise many products of export interest to developing countries, although excluded products vary among schemes. They include, in particular, non-tropical agricultural products, but also tropical agricultural items and, in the case of some schemes, natural-resource-based products. A few schemes largely exclude certain import-sensitive manufactured products, including textiles, clothing, leather and footwear. In 1996, imports of excluded products subject to duty of at least 5 per cent from non-LDC beneficiaries by the United States, Japan, the European Union and Canada amounted to $18.3 billion, $9.6 billion, $5.8 billion and $2.9 billion, respectively (annex table 9) (for LDCs see section f below). Many of the agricultural and industrial products that are excluded under GSP

schemes but are of export interest for developing countries will continue to be subject to peak tariffs even after the implementation of the Uruguay Round tariff reductions. The tariffication of non-tariff barriers in temperate-zone agricultural products, and some innately tropical products, now allows their straightforward incorporation into the GSP. A further extension of product coverage is an important avenue for expanding GSP benefits.

61. Where products that are subject to peak tariffs are covered by GSP schemes, in many cases the preferences that are granted fail to reduce the tariffs significantly. As a result, there may be no decisive competitive advantages for GSP beneficiaries, while the transaction cost of complying with GSP requirements may be high. Preference margins may therefore be improved where peak tariffs persist on goods of export interest to developing countries. In the agricultural sector, ample scope exists for significant tariff cuts and the establishment of preference margins that are commercially meaningful where the tariffication process has led to high, frequently prohibitive, tariffs, in particular for major agricultural food and other products.

62. Furthermore, exports seeking GSP treatment may have to be accommodated together with MFN imports within tariff quotas on many agricultural products that have been subject to tariffication. There are also a few such quotas on some import-sensitive industrial products. For example, Japan grants its GSP reduction for travel and leather goods and footwear only within the limits of tariff quotas which are usually rapidly exhausted soon after the opening of the quotas. Removing tariff quota limitations for GSP imports, i.e. allowing GSP beneficiaries to enjoy GSP rates or in-quota rates without quota limitations, would considerably expand GSP benefits, in particular in the agricultural sector.

(b) Graduation

63. GSP preference-giving countries increasingly apply graduation measures to beneficiary countries that are no longer considered to be in need of preferential treatment. A widening range of products of export interest to developing countries are affected by product-country graduations which withdraw GSP cover from a beneficiary country with regard to specific products or sectors. They include products of particular export interest to many developing countries: mineral products, chemicals, fertilizers, plastics and rubber, leather and leather articles, footwear, textiles and clothing, wood, jewellery and precious metals, steel products, consumer electronics, paper, glass and ceramic products, vehicles and transport equipment, optical instruments, clocks and musical instruments. In addition, full country graduations are increasingly applied to terminate GSP cover altogether for economically more advanced developing countries. LDCs are not affected by graduation policies, but a few low-income developing countries with large supply capabilities have become major targets of product graduations. Graduation carries an element of uncertainty which discourages long-term planning and often investment on the part of exporters and importers, in particular as these policies are based on criteria that can differ widely between GSP schemes.

64. Preference-giving countries could promote a more equitable distribution of benefits if graduation measures were accompanied by efforts to stabilize, if not to increase, the total value of GSP schemes through expanding coverage and reducing GSP rates for the remaining beneficiaries. The total value may be measured in terms of customs revenue forgone and the amount of trade that received GSP treatment. Furthermore, the application of graduation on the basis of criteria that are more transparent and objective in their requirements would help to reduce adverse impacts on the effectiveness of the GSP as a development instrument.

(c) Non-trade-related conditionalities

65. A number of preference-giving countries link GSP benefits more and more to compliance with social, humanitarian or other conditions that are not related to trade. These conditions are applied to LDCs in the same way as to other beneficiaries. The range of practices and circumstances which can trigger the withdrawal of benefits is rather wide.[16] Some preference-giving countries have

established a link between social or environmental conditions and GSP benefits by granting additional special incentives if beneficiary countries comply with these conditions. The additional incentives require a formal application by beneficiaries. The special GSP preferences for developing countries in sub-Saharan Africa under the proposed African Growth and Opportunity Act of the United States would be granted only to those countries that have established, or are making continual progress towards establishing, a market-based economy.

66. The wide-ranging non-trade-related conditionalities applied by major schemes curtail GSP benefits, apart from introducing elements of uncertainty and reciprocity into the GSP. Preference-receiving countries have characterized these conditionalities as inappropriate when attached to what, in effect, is a trade assistance programme that traditionally requires no reciprocal action by beneficiaries. The greatest possible restraint in the use of non-trade-related conditionalities would help to preserve GSP benefits in line with the original multilaterally agreed principles of UNCTAD Conference resolution 21(II).

(d) Rules of origin

67. Restrictive rules of origin continue to limit GSP benefits considerably. In particular, restrictive rules may work against the further integration of production in preference-receiving countries in the international value-added chain. Few preference-giving countries offer full and global cumulation that extends to suppliers from all beneficiary countries, nor is the allowance of donor-country content a standard feature of all schemes. Expanding the opportunities for full and global cumulation would serve to encourage trade among these countries by enabling complementarities in production capabilities to be exploited and greater advantage to be taken of international specialization. At the same time, the adoption of donor-country content provisions would encourage trade and industrial cooperation between enterprises in preference-giving and preference-receiving countries.

(e) Stability and predictability

68. The uncertainty that stems from insufficient stability and predictability of many GSP schemes militates against long-term planning by importers and exporters who might hesitate to engage in the cost of launching a new product on the market of the preference-giving country and investing in new plant and equipment. The lack of certainty that particular products will remain within a specific scheme can compound the uncertainty as to how long the scheme itself will continue to exist. Achieving greater stability and predictability would be important for attaining the investment and industrialization objectives of the schemes and enhancing the utilization of the GSP.

(f) Special measures for LDCs

69. Where GSP schemes grant the same product coverage for LDC and non-LDC beneficiaries, LDCs are also faced with the exclusion of many non-tropical and tropical agricultural products, natural-resource-based products and certain import-sensitive manufactured articles. The exclusion of import-sensitive manufactures is particularly damaging for LDCs as most of them have little competitive supply capabilities in other industrial sectors. In 1996, imports of textiles and clothing subject to duties of 5 per cent or more from LDCs into the United States amounted to $1.3 billion. In many excluded sectors, imports of products subject to duties of at least 5 per cent from LDCs are under major GSP schemes small, and often negligible, in value, pointing to a lack of competitive supply capabilities. GSP coverage would promote price competitiveness and facilitate further diversification into these sectors (annex table 10, which does not yet, however, reflect the improvements introduced in 1997 by the United States and the European Union). Recent improvements in product coverage under some schemes that have extended coverage in the agricultural sector, in particular, may be carried further. Preference-giving countries may consider their possibilities of granting duty-free access to all products without restriction in order to address effectively the problem of marginalization and promote greater integration of LDCs into the international trading system. Furthermore, LDCs have on many occasions expressed the wish that safeguard measures should not be applied against their exports. Preference-giving countries, for their part, have pointed to the linkage between

providing the widest possible GSP product coverage for LDCs and retaining the possibility of applying safeguards in unforeseen circumstances.

70. Stringent and complex rules of origin carry considerable economic risks for LDCs as experience shows that many of these countries have difficulty in managing such rules correctly and effectively. The further relaxation of the complex administrative procedures in favour of LDCS, together with the flexible administration of documentary and shipment requirements, especially the abolition of the direct consignment rule, would help them to enhance their utilization of GSP benefits. Moreover, adapting origin requirements to the production capabilities of LDCs is essential to enhance GSP benefits for these countries. Thus, "double jump" or even "triple jump" requirements to establish the origin of garment exports seriously constrain such exports from those LDCs which have no adequate supply capabilities for production inputs such as yarn or fabric. Where GSP certificates of origin are issued incorrectly, importers in preference-giving countries become technically liable for unpaid import duties, and will have recourse to the exporters who bear the responsibility for the invalid certificates. Recent cases have demonstrated that such a recourse can involve sizeable sums of money, apart from the risk of losing overseas customers with potentially disastrous consequences for the industry concerned.

71. Preference-giving countries, for their part, have claimed that the potential to provide wider product coverage and avoid safeguard action in the case of LDCs depends on rules of origin which ensure that benefiting products have effectively originated in LDCs.

Chapter IV

BUILDING CONSENSUS ON NEW POLICY INITIATIVES

72. Autonomous improvements at national levels may be complemented by a consensus among preference-giving countries on new policy approaches which aim at further enhancing the promotional impact of trade preferences, adapting preferences to the new trading environment and providing for greater uniformity in design and application.

A. Enhancing burden sharing

73. Those preference schemes which offer relatively more favourable market access conditions have a proportionately greater propensity to induce preferential imports than schemes which by comparison are less generous. Hence, preference-giving countries with schemes that are comparatively more generous are likely to bear a relatively greater "burden" in terms of imports and import penetration. Preferential imports could be distributed more equally among donor countries through continued efforts on the part of comparatively more restrictive preferential schemes to improve their preferential market access conditions, in particular product coverage and preferential margins, with a view to "catching up" with other donors. A more equal distribution of preferential imports could also reduce the risk of exposure of individual preference-giving countries to unbalanced increases of imports under their preference schemes. Moreover, burden sharing among donor countries would facilitate the extension of special concessions in favour of LDCs by developing countries and economies in transition. Consultations among preference-giving countries may serve to promote burden sharing. It is notable that in the GSP debate, liberalization is perceived as a "burden" while the economic benefits of liberalization, including unilateral market-opening measures, are emphasized in numerous international institutions and forums such as the WTO and the IMF.

B. Development-friendly operation of preferential schemes

74. The range of trade policy measures used as tools to protect domestic markets is apparently widening, and increasingly incorporates measures other than the traditional tariff instruments such as anti-dumping duties and sanitary and phytosanitary regulations. Moreover, the recent Asian financial crisis could strengthen protectionist tendencies in major markets if devaluations in Asian countries trigger increased inflows of cheap products from these economies. Against this backdrop, there is a risk that graduation measures,

non-economic conditions and rules of origin associated with trade preference schemes may increasingly be applied with a protectionist intent.

75. A development-friendly implementation of preferential schemes which avoids protectionist features would help beneficiary countries to exploit the full potential of existing preferences, and inject greater security into the planning of exports and investments at the enterprise level. To adjust to surges in imports as and when they occur, preference-giving countries can only have recourse to safeguard actions in line with the relevant WTO provisions which, by their very nature, are temporary expedients. Such remedial measures would require proof of a causal relationship between imports and injury, or threat thereof, to local industry.

C. Liberalization and graduation: an alternative approach

76. The GSP, like other unilateral trade preferences, represents a move, even if limited and unbalanced, towards freer trade and the widening of opportunities for the exploitation of comparative advantage. Accordingly, graduation might be considered as a measure that involves a roll-back of liberalization. Rather than applying graduation, a more appropriate approach in a liberalizing multilateral trading system would appear to be to freeze GSP rates until they are matched by reduced MFN rates at which point in time the GSP would no longer apply. Where product graduations had been envisaged, GSP rates would be frozen for the products in question, while all GSP rates would be frozen at their current levels in cases where the intention was to graduate a country as a whole. Preference margins would decrease in keeping with the progress of liberalization on an MFN basis. Beneficiary countries that were being phased out from the GSP would no longer benefit from extensions in GSP product coverage that might occur during the transition period.

D. GSP and other preferences in new areas

77. Some preference-receiving countries have indicated their interest in pursuing further the concept of enlarging the scope of GSP to embrace trade in services and investment, in line with the extension of the multilateral trading system to such new areas, the progress of globalization and liberalization, and the increasing importance of the services sector for developing countries' economies and investment. These new areas might, in their view, offer a substantial and interesting potential for revitalizing the GSP and adjusting it to new economic realities.

78. A number of preference-giving countries have expressed strong doubts that the GSP could be applied to the areas in question. Barriers to trade in services, for instance, take the form of regulations rather than measurable tariffs or other quantifiable parameters. It would therefore be difficult to identify a set of preferences that could be given automatically to developing country exporters. More study is required if concrete and practicable proposals are to be drawn up, including studies of preferential measures within regional agreements in such areas as trade in services and sanitary and phytosanitary regulations.

E. Greater alignment of LDC preferences

79. GSP schemes and other unilateral trade preference schemes of developed countries present a rather fragmented picture due to major differences with regard to product coverage, preference margins, the criteria on which they base major policies (e.g. graduation, non-economic conditionalities, safeguard-type measures), and the design and application of rules of origin. The resulting complexity places heavy demands on weak institutional and managerial capacities of LDCs and their exporters. To reduce transaction costs and enhance the utilization of trade preferences by LDCs, preference-giving developed countries might aim to give all LDCs similar preferential treatment and equal opportunities in their markets. Likewise, developing countries that are planning to introduce special preferences for LDCs might decide to align their

preferences as far as possible through mutual consultations on key issues such as the stability and predictability of their schemes, the scope of product coverage, preference margins, rules of origin, and safeguard measures. Moreover, as suggested in the WTO Action Plan for LDCs, donor countries could study the feasibility of binding preferential tariff rates for LDCs.

F. Harmonization of preferential rules of origin

80. There is a growing array of different sets of preferential rules of origin worldwide. Besides the origin rules of GSP schemes and other unilateral trade preferences, a great number of contractual sets attached to reciprocal trade arrangements are applied. For instance, the United States and Canada have each about six different sets, while the European Union has more than 14 in operation. Compliance with these rules by exporters is becoming increasingly complex, entailing high transaction costs. Problems are aggravated by the fact that the interpretations and applications of these rules often lack transparency and predictability. In the European Union, efforts are currently being made to adopt gradually a single set of preferential rules of origin for all the EU's reciprocal trade arrangements. Similarly, NAFTA-inspired preferential rules of origin are expected to be adopted in the negotiations for the establishment of the FTAA.

81. The WTO Agreement on Rules of Origin has put in place a work programme with the objective of harmonizing non-preferential origin rules, and work under this Agreement is already advancing. A Common Declaration With Regard To Preferential Rules of Origin is attached to the Agreement, but only sets out a few basic technical and procedural guidelines for the application of preferential rules. The harmonization of such rules has not been attempted, nor does the Common Declaration address the crucial issue as to whether and to what extent preferential rules of origin may be used as an instrument to pursue trade policy objectives. In practice, such use is widespread, in no small part for protectionist purposes, but also for the advancement of legitimate development objectives. Major examples of "development-friendly" use are cumulation provisions in support of the integration of more developing countries into international production and trade or more favourable domestic content provisions for LDCs.

82. In the case of contractual preferential rules of origin, considerable political resistance to harmonization can be expected, as such rules are the outcome of intensive negotiations that reflect the vested interests of domestic industries. Globally harmonized rules could hardly accommodate all the particular trade and economic interests of partners to numerous different bilateral, regional and interregional trade arrangements in a fashion that would satisfy every interest group concerned. The harmonization of GSP rules of origin offers a somewhat different perspective. These rules, which are set unilaterally, are associated with a trade policy instrument based on objectives that are common to all preference-giving countries. There is a broad consensus that the harmonization of GSP rules of origin would enhance their simplicity and transparency and strengthen the effectiveness of the GSP. The UNCTAD Intergovernmental Group of Experts on Rules of Origin, which met in 1995 in Geneva, requested the UNCTAD secretariat to propose a harmonized set of GSP rules of origin to member States for their consideration and adoption, once the WTO Technical Committee on Rules of Origin had achieved its objectives.[11] The conclusion of the work of the WTO Technical Committee would offer the opportunity to reconsider the issue within UNCTAD.

G. Special and differential (S&D) treatment for developing countries: need for a new concept

83. The GSP and other unilateral trade preferences constitute a particular case of S&D treatment extended by developed to developing countries. Accommodating current developments in the area of unilateral trade preferences

within the framework of multilateral rules on S&D treatment is becoming an increasingly difficult and complex task. The Enabling Clause does not allow preferential treatment on a selective basis, while free trade areas are required to implement full reciprocity, covering substantially all trade among participants (Article XXIV of GATT). Increasing recourse to GATT waivers does not offer a solution that is practicable in the longer run.

84. Thus, the changing international trading environment calls for new, more differentiated and flexible approaches towards S&D treatment that would support the gradual integration of developing countries into the world economy in line with individual development, financial and trade needs, and administrative and institutional capabilities. More flexible provisions could, for instance, authorize asymmetrical free trade areas, which would not require full reciprocity, thereby promoting the integration of LDCs and other structurally weak economies into the expanding web of regional and interregional trade arrangements as important vehicles to salvage them from marginalization. Such provisions would facilitate the conclusion of differentiated post-Lomé arrangements with a tailor-made mix of non-reciprocal and reciprocal concessions that respond to particular development needs. More flexible provisions could also provide a legal base for unilateral trade preferences offered by developed countries to regional sub-groups of developing countries, such as special preferences of that kind in favour of sub-Saharan African economies. A new round of multilateral trade negotiations, which has been suggested by some, would offer an opportunity to search for, and agree on, new concepts.

ENDNOTES

1. Australia, Belarus, Bulgaria, Canada, Czech Republic, European Union, Hungary, Japan, New Zealand, Norway, Poland, Russian Federation, Slovakia, Switzerland, United States.

2. For a detailed analysis, see "Policy options and proposals for the revitalization of the GSP", report by the UNCTAD secretariat (TD/B/SCP/13) and table 2 in Addendum 1.

3. See, for instance, S. Page and M. Davenport, "Effects of the GATT Uruguay Round on developing countries", Overseas Development Institute, mimeo, 1994. According to this study, preference erosion would have reduced exports of developing countries by 0.1 per cent, of ACP countries by 1.5 per cent and of LDCs by 1.7 per cent in 1991. However, certain countries appeared to suffer considerably higher levels of export contraction, e.g. Ethiopia (5.9 per cent), Malawi (5.3 per cent), Guyana (4.8 per cent), Mozambique (4.6 per cent), and Jamaica (3.2 per cent).

4. See "Guidelines for the negotiation of new cooperation agreements with the African, Caribbean and Pacific (ACP) countries", Communication from the Commission to the Council and the European Parliament, Brussels, December 1997.

5. See European Commission, "Commission Communication to the Council: recommendation for a Council decision authorizing the Commission to negotiate a development partnership agreement with the ACP countries", Brussels, 28 January 1998.

6. See "The Libreville Declaration adopted by the First Summit of ACP Heads of State and Government", Libreville, Gabon, 7 November 1997 (ACP/28/051/97 FINAL).

7. See also chapter III, section B,1,(b),(ii).

8. The tables are contained in a separate statistical annex TD/B/COM.1/20/Add.1.

9. Data for 1996 and 1995 are those of Canada, the European Union (including Austria, Finland, Sweden), Japan, Norway, Switzerland, the United States and Poland. Data for 1976 cover the same preference-giving countries, with the exception of Poland and the addition of Australia, New Zealand and Hungary. The available data account for most of the GSP imports.

10. They include, in particular, violation of internationally recognized labour rights; the practice of child labour; shortcomings in customs control on exports or transit of drugs; failure to comply with international conventions on money laundering; inadequate protection of intellectual property rights; application of unreasonable export practices such as subsidization; or application of trade distorting investment practices.

11. See "Report of the Intergovernmental Group of Experts on Rules of Origin" (TD/B/SCP/14 - TD/B/SCP/AC.1/3), 1995.